



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/628,345	07/28/00	CAVAZZA	C 2801-21

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HM12/1003

EXAMINER

KIM, J

ART UNIT

PAPER NUMBER

1617

3

DATE MAILED:

10/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/628,345

Applicant(s)

Cavazza

Examiner

Jennifer Kim

Group Art Unit

1617

☒ Responsive to communication(s) filed on Jul 28, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-11 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1617

DETAILED ACTION

Restriction

1. Restriction to one invention is required under 35 U.S.C. 121.

The claims are drawn to a synergistic effect as taught by applicant at page 4, lines 8-15 of the specification. Applicant is required to (1) elect a single disclosed synergistic combination of specific compounds even though the requirement be traversed and (2) to add a claim directed to that specific combination of compounds.

The restriction is deemed proper due to the fact that unrelated combinations of compounds yielding synergistic effects are inherently unpredictable and are hence capable of supporting separate and distinct patents.

It is also noted that one specific synergistic combination of two compounds is known to be chemically distinct from another specific synergistic combination of two compounds and reference to one combination would not necessarily be a reference against the other combination under 35 U.S.C.103.

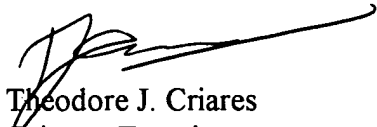
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kim whose telephone number is (703) 308-2232. The examiner can normally be reached on Monday through Friday from 9 AM. to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Cintins, can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7924.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

jmk
September 28, 2000



Theodore J. Criares
Primary Examiner
Art Unit 1617